

## **Title 32: Rehabilitation and Disabilities**

### **Part 101: Mississippi Industries for the Blind**

#### **Part 101 Chapter 1: Names, Purpose and Duties**

*Rule 1.1 Name.* Pursuant to Miss. Code Ann. 43-3-103 this body shall be known as the Board of Directors (Board) for Mississippi Industries for the Blind (MIB), an agency of the state of Mississippi created by Miss. Code Ann. 43-3-101 et seq.

Source: *Miss. Code Ann.* § 43-3-103 (Rev. 2009)

*Rule 1.2 Purpose.* The purpose of the Board, which is set out in Miss. Code Ann. 43-3-103 is to govern MIB in conformity with Federal rules and regulations and the laws of the state of Mississippi and the United States of America.

Source: *Miss. Code Ann.* § 43-3-103 (Rev. 2009)

#### *Rule 1.3 Duties of the Board.*

- A. To serve as the governing body for MIB by establishing and implementing a mission statement for MIB
- B. To employ an Executive Director who shall serve as the executive and administrative head of MIB and to set said Executive Director's salary
- C. To make and publish policies, rules and regulations as may be necessary for the effective administration and operation of MIB not inconsistent with the terms of Miss. Code Ann. 43-3-103 et seq. and the Federal rules and regulations and the laws of the state of Mississippi and the United States of America
- D. To adopt and publish rules and regulations, in its discretion, to establish a policy of sick leave with pay and personal leave with pay for MIB employees and to require that MIB offices be open and staffed on legal holidays as determined necessary by the Board of Directors
- E. To meet quarterly
- F. To annually elect officers
- G. To act as advocate for MIB
- H. To annually review all physical facilities of MIB
- I. To annually review the financial status of MIB including all contracts and the profits therefrom
- J. To annually review the personnel manual of MIB

Source: *Miss. Code Ann.* § 43-3-103 (Rev. 2009)

#### **Part 101 Chapter 2: Membership**

*Rule 2.1 Composition of Board.* The membership of the Board is established by Miss. Code Ann. 43-3-103

Source: *Miss. Code Ann.* § 43-3-103 (Rev. 2009)

*Rule 2.2 Appointment and Approval.* *Miss. Code Ann.* 43-3-103 sets out who shall appoint the various members of the Board. All Board members must be approved by the Mississippi State Senate.

Source: *Miss. Code Ann.* § 43-3-103 (Rev. 2009)

*Rule 2.3 Vacancies.*

- A. The Chair shall sign a letter addressed to the Governor and Lt. Governor by November 1 of each year reminding them of the Board member positions for which they will need to nominate someone for the upcoming year, such letters will be prepared by the Executive Director.
- B. If a vacancy occurs through resignation or dismissal for failure to attend meetings, and then the Chair will notify the appointing authority within thirty (30) days of said resignation or dismissal of the necessity to nominate another person to fill that position.

Source: *Miss. Code Ann.* § 43-3-103 (Rev. 2009)

*Rule 2.4 Compensation of Board Members.* Compensation for the Board will include travel and per diem for Board meetings and for any other expenses pre-approved by a vote of the Board or the Chair and the Executive Director.

Source: *Miss. Code Ann.* § 25-3-41 (Rev. 2010); § 25-3-69 (Rev. 2010)

### **Part 101 Chapter 3: Meetings of the Board**

*Rule 3.1 Overview.*

- A. Meetings will conform to the Mississippi Open Meetings Act at *Miss. Code Ann.* 25-41-1 et seq.
- B. Meetings will be conducted pursuant to the latest version of Roberts Rules of Order revised.

Source: *Miss. Code Ann.* § 25-41-1 (Rev. 2010)

*Rule 3.2 Regularly Scheduled Meetings.*

- A. The Board will hold four (4) regular meetings annually with the dates of these meetings being set for the next fiscal year at the first meeting held after July 1 of each year.
- B. The secretary to the Board will be required to post notice of regular meetings at all MIB facilities at least fifteen (15) calendar days prior to the meeting date and to distribute the same notice to other agencies and organizations as designated by the Board.
- C. The date of a regularly scheduled meeting can only be changed by agreement of a majority of Board members and must be published in the same manner with the new time, date, and place of the next regularly scheduled meeting at least five (5) working days prior to said meeting.

Source: *Miss. Code Ann.* § 43-3-103 (4) (b) (Rev. 2009)

*Rule 3.3 Called Meetings.* Notice for any called special meetings shall be posted in a prominent place available to examination and inspection by the general public in the building in which MIB normally meets within one (1) hour after such meeting is called. A copy of the notice shall be made part of the minutes.

Source: *Miss. Code Ann.* § 25-41-13 (Rev. 2010)

*Rule 3.4 Quorum.* A quorum is a minimum of four (4) Board members.

Source: *Miss. Code Ann.* § 43-3-103 (4) (b) (Rev. 2009)

*Rule 3.5 Attendance.*

- A. If unable to attend meeting, a Board member must notify the Chair or the Executive Director as soon as possible.
- B. If anyone misses more than two (2) consecutive regularly scheduled meetings a majority of the Board may call for his or her resignation. If a majority of the Board votes to do so, the person responsible for appointing the absentee member shall be notified in writing of the member's failure to attend and the appointing authority shall be requested by the Executive Director to fill the vacancy.
- C. A quorum (majority) must be in attendance to conduct business.

Source: *Miss. Code Ann.* § 43-3-103 (4) (b) (Rev. 2009)

*Rule 3.6 Public Access to the Board.*

- A. Members of the public are welcome to attend all meetings of the Board except for executive sessions
- B. Members of the public who would like to address the Board must submit their agenda item in writing to the Executive Director at least ten (10) working days before the Board meeting. Unless otherwise granted by the Board, the public will have five (5) minutes to address the Board. Personnel matters are considered confidential and will be brought before the Board in executive session in compliance with Section 25-41-7 (4) (a), *Miss. Code Ann.* as amended.
- C. Individuals who wish to be included on the Board's agenda must submit a written request to the Board on the Agenda Request Form provided by the Board's administrative assistant. The Secretary to the Board must receive this request at least ten (10) working days prior to the regularly scheduled Board meeting. Only the individual signing the Agenda Request Form will be recognized by the Board to speak for the five (5) minute period, unless otherwise granted by the Board.

Source: *Miss. Code Ann.* § 43-3-103 (4) (b) (Rev. 2009); §25-41-1, et. seq. (Rev. 2010)

*Rule 3.7 Teleconference Meeting.*

- A. Section 25-41-5, *Miss. Code Ann.* (1972) as amended provides that a public body may conduct a meeting through teleconference or video means. A quorum of a public body as

prescribed by law may be at different locations for the purpose of conducting a meeting through teleconference or video means provided participation is available to the general public. Notice of any teleconference or video meetings shall be provided at least five (5) days in advance of the date scheduled for the meeting. The notice shall include the date, time, place and purpose for the meeting and shall identify the locations for the meeting. All locations shall be made accessible to the public. All persons attending the meeting at any of the meeting locations shall be afforded the same opportunity to address the public body as persons attending the primary or central location. Any interruption in the teleconference or video broadcast of the meeting shall result in the suspension of action at the meeting until repairs are made and public access restored.

- B. Votes taken during teleconference or video means shall be recorded by name in roll-call fashion and included in the minutes. Minutes of all meetings held by teleconference or video means shall be recorded as required by Section 25-41-11, Miss. Code Ann. (1972) as amended. Personnel matters are considered confidential and will be brought before the Board in executive session in compliance with Section 25-41-7 (4) (a), Miss. Code Ann. (1972) as amended.
- C. The public body shall make an audio recording of the meeting, if a teleconference medium is used, or an audio/visual recording, if the meeting is held by video means. The recording shall be preserved by the public body for a period of three (3) years following the date of the meeting and shall be available to the public.
- D. An agenda and materials that will be distributed to members of the public body and that have been made available to the staff of the public body in sufficient time for duplication and forwarding to all locations where public access will be provided shall be made available to the public at the time of the meeting.

Source: *Miss. Code Ann.* § 25-41-5 (Rev. 2010)

*Rule 3.8 Order of Business.* The order of business for each regular and special meeting shall generally be recommended by the Executive Director and at the pleasure of the Chair. Board members wishing a particular item on the agenda must notify the Executive Director at least ten (10) working days prior to the meeting. The agenda will be available in alternate formats, i.e. Braille/large print upon request.

Source: *Miss. Code Ann.* § 43-3-103 (4) (b) (Rev. 2009)

## **Part 101 Chapter 4: Officers and Duties**

*Rule 4.1 Officers.* The Board shall elect a Chair and a Vice Chair.

Source: *Miss. Code Ann.* § 43-3-103 (Rev. 2009)

### *Rule 4.2 Election and Terms*

- A. Officers shall be elected at the first meeting after July 1 of each year or at the next regularly scheduled meeting after a vacancy occurs.
- B. Chair and Vice Chair are elected in terms of one (1) year. Each officer may not serve more than two (2) consecutive terms.

Source: *Miss. Code Ann.* § 43-3-103 (4) (b) (Rev. 2009)

*Rule 4.3 Duties.*

- A. The Chair shall:
  - a) Preside at all Board meetings
  - b) Sign the approved minutes of all meetings chaired
  - c) Consult with the Executive Director and other Board members to set the agenda for said meeting
  - d) Ensure that dates, times, places of meetings shall be posted pursuant to the Open Meetings Act
- B. The Vice Chair shall:
  - a) Conduct all meetings when the Chairperson is absent
  - b) Sign the approved minutes of all meetings chaired
- C. The Administrative Secretary to the Board shall:
  - a) Insure that all approved minutes of Board meetings are submitted to the Executive Director
  - b) Sign the approved minutes of all meetings

Source: *Miss. Code Ann.* § 43-3-103 (4) (b) (Rev. 2009)

**Part 101 Chapter 5: Record Keeping**

*Rule 5.1 Minutes.*

- A. It is required that minutes be kept of all business conducted at Board meetings, except for discussion held during executive sessions in accordance with Miss. Code Ann. 25-41-7
- B. All written reports submitted at a Board meeting shall be attached to that meeting's minutes. Such reports will be available in alternate formats upon request.
- C. Minutes shall reflect all who attended that meeting, all Board members who are absent, and all business conducted at that meeting except for discussions held during executive session in accordance with Miss. Code Ann. 25-41-7.
- D. Minutes of a Board meeting must be approved by the Board within the next two (2) consecutive regularly scheduled Board meetings.
- E. Minutes of the Board which have been approved will be signed by the person chairing said meeting and the Secretary to the Board who shall be responsible for maintaining and storing said minutes.
- F. Corrections approved by the Board will be the responsibility of the Board's Administrative Assistant who acts as the Board's secretary. Such corrected minutes will be distributed prior to the next regularly scheduled Board meeting.

Source: *Miss. Code Ann.* § 25-41-11 (Rev. 2010)

*Rule 5.2 Procedures for Inspecting and Copying Public Records of the Board.* The following is intended for the purpose of providing reasonable written procedures concerning the cost, time, place and method of access, under the provisions of the MS Public Records Act (Open Records Act) [Section 25-61-5, et seq.]

- A. Board minutes, the annual audit and other Board documents and/or reports may be inspected in the Office of the Executive Director but shall not be removed from his/her control and custody.
- B. All requests to inspect Board documents and/or records must be submitted to the Executive Director in writing specifically setting out the documents and/or records to be inspected.
- C. The Executive Director, upon receipt of any such request, shall review same and determine whether the records sought are exempt under the Mississippi Public Records Act, and shall either produce records or access to records or deny access to or production of the records sought within seven (7) working days from the date of the receipt of the request for the production of the record. If MIB is unable to produce a public record by the seventh working day after the request is made, MIB must provide a written explanation to the person making the request stating the record requested will be produced within the seven-day period unless there is a mutual agreement of the parties, but in no event shall the date for MIB's production of the requested record be any later than fourteen (14) working days from the receipt by MIB of the original request.
- D. The cost of copying and mailing said documents and/or records shall be paid by the requesting party prior to the receipt of the copies.
- E. Cost of mechanical reproduction of documents and/or records will be calculated on the basis of actual cost.
- F. The mode of transmission will be designated by the requesting party who shall pay the actual cost of same.
- G. The Executive Director may waive any or all of the forgoing requirements related to written notice, time and method of access, prepayment of expenses whenever the determination is made that such waiver would be in the public's best interest.
- H. There shall be no charge for inspection of the current Board records maintained by the Secretary to the Board. Costs of obtaining records from any storage facilities and the search for it shall be charged based on actual costs.
- I. Mailing costs shall be calculated at the applicable rate for each such mailing. If the request involves a notice to be given to a third party, the cost of mailing such notice via certified mail return receipt requested shall be charged to the person requesting such public records.
- J. There shall be a charge of \$0.50 per page for each copy. Copies printed on both sides (front and back) shall be considered as two pages for copy charge purposes.

Source: *Miss. Code Ann.* § 25-61-5 (Rev. 2010)

## **Part 101 Chapter 6: Rules and Procedures**

### *Rule 6.1 Approval.*

- A. Rules and procedures will be available in alternate formats, i.e. Braille/large print.
- B. Rules and procedures must be approved by a majority of the Board.

Source: *Miss. Code Ann.* § 43-3-103 (c) (D) (Rev. 2009)

*Rule 6.2 Amendments.*

- A. Proposed amendments to these rules and procedures must be submitted in writing to the Board at least thirty (30) calendar days prior to a regularly scheduled meeting.
- B. All amendments will require a majority of the Board for approval.
- C. All amendments to rules will comply with Administrative Procedures Act, Section 25-43-1. 101, et seq.
- D. All amendments to the Board's rules and procedures will be available in alternate formats, i.e. Braille/large print and will comply with Administrative Procedures Act, Section 25-43-1. 101, et seq.

Source: *Miss. Code Ann.* § 43-103 (4) (b) (Rev. 2009); § 25-43-1.101, et. seq. (Rev.2010)

*Rule 6.3 Administrative Rules (as required by Mississippi Administrative Procedures Law).*

- A. Oral Proceedings on Proposed Rules (suggested by 25-43-3. 104 (2) (d) not mandatory)
  - a. Scope. This rule applies to all oral proceedings held for the purposes of providing the public with an opportunity to make oral presentations on proposed new rules and amendments to rules before Mississippi Industries for the Blind pursuant to 25-43-3. 104
  - b. When Oral Proceedings will be scheduled on Proposed Rules. Mississippi Industries for the Blind will conduct an oral proceeding on a proposed rule or amendment if requested by a political subdivision, an agency or ten (10) persons in writing within twenty (20) days after the filing of the notice of the proposed rule.
  - c. Request Format. Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard business letter-size paper (8 ½ inches by 11 inches). Requests may be in the form of a letter addressed to Mississippi Industries for the Blind.
  - d. Notice of Oral Proceeding. The date, time and place of all oral proceedings will be scheduled no earlier than twenty (20) days from the filing of this information with Secretary of State.
  - e. Presiding Officer. The Executive Director or his/her designee, who is familiar with the substance of the proposed rule, shall preside at the oral proceeding on a proposed rule
  - f. Public Presentation and Participation.
    - a) At an oral proceeding on a proposed rule, persons may make oral statements and make documentary and physical submissions, which may include data, views, comments or arguments concerning the proposed rule
    - b) Persons wishing to make oral presentations at such a proceeding shall notify Mississippi Industries for the Blind at least one (1) business day prior to the proceeding and indicate the general subject of their presentations. The presiding officer in his or her discretion may allow individuals to participate that have not previously contacted Mississippi Industries for the Blind.
    - c) At the proceeding, those who participate shall indicate their names and addresses, identifying any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer.

- d) The presiding officer may place time limitations on individual oral presentations when necessary to assure the orderly and expeditious conduct of the oral proceeding. To encourage joint oral presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.
- e) Persons making oral presentations are encouraged to avoid restating matters that have already been submitted in writing.
- f) There shall be no interruption of a participant who has been given the floor by the presiding officer, except that the presiding officer may in his or her discretion interrupt or end the participant's time when the orderly conduct of the proceeding so requires.
- g. Conduct of Oral Proceeding.
  - a) Presiding Officer. The presiding officer shall have authority to conduct the proceeding in his or her discretion for the orderly conduct of the proceeding. The presiding officer shall; (i) call proceeding to order; (ii) give a brief synopsis of the proposed rule, a statement of the statutory authority for the proposed rule, and the reasons provided by Mississippi Industries for the Blind for the proposed rule; (iii) call on individuals who have contacted Mississippi Industries for the Blind about speaking on or against the proposed rule; (iv) allow for rebuttal statements following all participant's comments; (v) adjourn the proceeding.
  - b) Questions. The presiding officer where time permits and to facilitate the exchange of information, may open the floor to questions or general discussion. The presiding officer may question participants and permit the questioning of participants by other participants about any matter relating to that rule-making proceeding, including any prior written submissions made by those participants in that proceeding; but no participant shall be required to answer any question.
  - c) Physical and Documentary Submissions. Submissions presented by participants in an oral proceeding shall be submitted to the presiding officer. Such submissions become the property of Mississippi Industries for the Blind and subject to Mississippi Industries for the Blind's public records request procedure.
  - d) Recording. Mississippi Industries for the Blind may record oral proceedings by stenographic or electronic means.

Source: *Miss. Code Ann.* § 25-43-3.104 (Rev. 2010)

*Rule 6.4 Declaratory Opinions [required by 25-43-2.103 (2)].*

- A. Scope. These rules set forth the Mississippi Industries for the Blind's (hereinafter MIB). "MIB's rules governing the form and content of requests for declaratory opinions and MIB's procedures regarding the requests, as required by Mississippi Code 25-43-2.103. These rules are intended to supplement and be read in conjunction with the provisions of the Mississippi Administrative Procedures Law, which may contain additional information regarding the issuance of declaratory opinions. In the event of any conflict between these rules and the Mississippi Administrative Procedures Law, the latter shall govern.



- B. Persons Who May Request Declaratory Opinions. Any person with a substantial interest in the subject matter may request a declaratory opinion from MIB by following the specified procedures. "Substantial interest in the subject matter" means; an individual, business, group or other entity that is directly affected by MIB's administration of the laws within constitutional or statutory grant of authority in the subject matter at issue.
- C. Subjects Which May Be Addressed In Declaratory Opinions. MIB will issue declaratory opinions regarding the applicability to specified facts of: (1) a statute administered or enforceable by MIB or (2) a rule promulgated by MIB. MIB will not issue a declaratory opinion regarding a statute or rule which is outside the primary jurisdiction of the agency.
- D. Circumstances in Which Declaratory Opinions Will Not Be Issued. MIB may, for good cause, refuse to issue a declaratory opinion. The circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to:
- a) Lack of clarity concerning the question presented
  - b) There is pending or anticipated litigation, administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary
  - c) The statute or rule on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request
  - d) The facts presented in the request are not sufficient to answer the question presented
  - e) The request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules
  - f) The request seeks to resolve issues which have become moot, or are abstract or hypothetical such that the requestor is not substantially affected by the statute or rule on which a declaratory opinion is sought
  - g) No controversy exists concerning the issue as the requestor is not faced with existing facts or those certain to arise which raise a question concerning the application of the statute or rule
  - h) The question presented by the request concerns the legal validity of a statute or rule
  - i) The request is not based upon facts calculated to aid in the planning of future conduct but is, instead, based on past conduct in an effort to establish the effect of that conduct
  - j) No clear answer is determinable
  - k) The question presented by the request involves the application of a criminal statute or a set of facts which may constitute a crime
  - l) The answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure
  - m) The question is currently the subject of an Attorney General's opinion request or has been answered by Attorney General's opinion
  - n) A similar request is pending before this agency or any other agency or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal, or where such an opinion would constitute the unauthorized practice of law

- o) Where issuance of a declaratory opinion may adversely affect the interests of the State, MIB or any of their officers or employees in any litigation which is pending or may reasonably be expected to arise
  - p) The question involves eligibility for a license, permit, certificate or other approval by MIB or some other agency, and there is a statutory or regulatory application process by which eligibility for said license, permit, certificate or other approval would be determined
- E. **Written Request Required.** Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard business letter-size paper (8 ½ inches by 11 inches). Requests may be in the form of a letter addressed to MIB
- F. **Where to Send Requests.** All requests must be mailed, delivered or transmitted via facsimile to MIB. The request shall clearly state that it is a request for a declaratory opinion. No oral, telephone requests or email requests will be accepted for official opinions.
- G. **Name, Address and Signature of Requestor.** Each request must include the full name, telephone number and mailing address of the requestor. All requests shall be signed by the person filing the request, who shall attest that the request complies with the requirements set for the in these rules, including but not limited to a full, complete, and accurate statement of relevant facts and that there are no related proceedings pending before any other administrative or judicial tribunal.
- H. **Question Presented.** Each request shall contain the following:
- a) A clear and concise statement of all the facts on which the opinion is requested
  - b) A citation to the statute or rule at issue
  - c) The question (s) sought to be answered in the opinion, stated clearly
  - d) A suggested proposed opinion from the requestor, stating the answers desired by petitioner and a summary of the reasons in support of those answers
  - e) The identity of all other known persons involved in or impacted by the described factual situation, including their relationship to the facts, name, mailing address and telephone number; and
  - f) A statement to show that the persons seeking the opinion has a substantial interest in the subject matter
- I. **Time for MIB Response.** Within forty-five (45) days after the receipt of a request for a declaratory opinion which complies with the requirements of these rules, MIB shall, in writing:
- a) Issue a declaratory opinion regarding the specified statute or rule as applied to the specified circumstances
  - b) Decline to issue a declaratory opinion, stating the reasons for its actions; or
  - c) Agree to issue a declaratory opinion by a specified time but not later than ninety (90) days after receipt of the written request
- The forty-five (45) day period shall begin running on the first State of Mississippi business day on or after the request is received by MIB, whichever is sooner.
- J. **Opinion Not Final for Sixty Days.** A declaratory opinion shall not become final until the expiration of sixty (60) days after the issuance of the opinion. Prior to the expiration of sixty (60) days, MIB may, in its discretion, withdraw or amend the declaratory opinion for any reason which is arbitrary or capricious. Reasons for withdrawing or amending an

opinion include, but are not limited to a determination that the request failed to meet the requirements of these rules or that the opinion issued contains a legal or factual error.

- K. Notice by MIB to Third Parties. The MIB may give notice to any person, agency or entity that a declaratory opinion has been requested and may receive and consider data, facts, arguments and opinions from other persons, agencies or other entities other than the requestor.
- L. Public Availability of Requests and Declaratory Opinions. Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying in accordance with the Public Records Act and MIB's public records request procedure. All declaratory opinions and requests shall be indexed by name and subject. Declaratory opinions and requests which contain information which is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain confidential.
- M. Effects of a Declaratory Opinion. MIB will not pursue any civil, criminal or administrative action against a person who is issued a declaratory opinion from MIB and who, in good faith, follows the direction of the opinion and acts in accordance therewith unless a court of competent jurisdiction holds that the opinion is manifestly wrong. Any declaratory opinion rendered by MIB shall be binding only on MIB and the person to whom the opinion is issued. No declaratory opinion will be used as precedent for any other transaction or occurrence beyond that set forth by the requesting person.

Source: *Miss. Code Ann.* § 25-43-2.103 (Rev. 2010)